

**In the Matter of the Accusation
Against:

Charles Yang, M.D.

Physician's and Surgeon's
Certificate No. A 35385

Respondent**

DCU86 (Rev 01-2019)

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9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **CHARLES YANG, M.D.**
15 **17552 Beach Blvd Suite B**
16 **Huntington Beach, CA 92647**

17 **Physician's and Surgeon's Certificate**
No. A 35385

18 Respondent.

Case No. 800-2017-038059

OAH No. 2018110312

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER FOR PUBLIC**
21 **REPRIMAND**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Jason J. Ahn,
27 Deputy Attorney General.

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1 2. Respondent Charles Yang, M.D. (Respondent) is represented in this proceeding by
2 attorneys Dennis K. Ames, Esq. and Pogey Henderson, Esq., whose address is: 2677 North Main
3 Street, Suite 901, Santa Ana, CA 92705-6632.

4 3. On or about June 18, 1980, the Board issued Physician's and Surgeon's Certificate
5 No. A 35385 to Respondent. The Physician's and Surgeon's Certificate was in full force and
6 effect at all times relevant to the charges brought in Accusation No. 800-2017-038059, and will
7 expire on June 30, 2020, unless renewed.

8 **JURISDICTION**

9 4. On or about October 25, 2018, Accusation No. 800-2017-038059 was filed before the
10 Board, and is currently pending against Respondent. The Accusation and all other statutorily
11 required documents were properly served on Respondent on October 25, 2018. Respondent
12 timely filed his Notice of Defense contesting the Accusation.

13 5. A copy of Accusation No. 800-2017-038059 is attached as exhibit A and incorporated
14 herein by reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and fully understands the
17 charges and allegations in Accusation No. 800-2017-038059. Respondent has also carefully read,
18 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

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1 CULPABILITY

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2017-038059, and that he has thereby subjected his Physician's and Surgeon's
5 Certificate No. A 35385 to disciplinary action.

6 10. For the purpose of resolving Accusation No. 800-2017-038059 without the expense
7 and uncertainty of further proceedings, Respondent agrees that his Physician's and Surgeon's
8 Certificate No. A 35385 is subject to disciplinary action and he agrees to be bound by the Board's
9 imposition of discipline as set forth in the Disciplinary Order below.

10 CONTINGENCY

11 11. This Stipulated Settlement and Disciplinary Order shall be subject to approval of
12 the Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
13 submitted to the Board for its consideration in the above-entitled matter and, further, that the
14 Board shall have a reasonable period of time in which to consider and act on this Stipulated
15 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent
16 fully understands and agrees that he may not withdraw his agreement or seek to rescind this
17 stipulation prior to the time the Board considers and acts upon it.

18 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
19 null and void and not binding upon the parties unless approved and adopted by the Board,
20 except for this paragraph, which shall remain in full force and effect. Respondent fully
21 understands and agrees that in deciding whether or not to approve and adopt this Stipulated
22 Settlement and Disciplinary Order, the Board may receive oral and written communications from
23 its staff and/or the Attorney General's Office. Communications pursuant to this paragraph shall
24 not disqualify the Board, any member thereof, and/or any other person from future participation
25 in this or any other matter affecting or involving Respondent. In the event that the Board does
26 not, in its discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with
27 the exception of this paragraph, it shall not become effective, shall be of no evidentiary value
28 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party

1 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
2 be rejected for any reason by the Board, Respondent will assert no claim that the Board, or any
3 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
4 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

5 **ADDITIONAL PROVISIONS**

6 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein
7 to be an integrated writing representing the complete, final and exclusive embodiment of the
8 agreements of the parties in the above-entitled matter.

9 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
10 including copies of the signatures of the parties, may be used in lieu of original documents and
11 signatures and, further, that such copies shall have the same force and effect as originals.

12 15. In consideration of the foregoing admissions and stipulations, the parties agree the
13 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
14 the following Disciplinary Order:

15 **DISCIPLINARY ORDER**

16 1. **PUBLIC REPRIMAND.**

17 IT IS HEREBY ORDERED that Respondent Charles Yang, M.D., holder of Physician's
18 and Surgeon's Certificate No. A 35385, shall be and hereby is Publicly Reprimanded pursuant to
19 Business and Professions Code section 2227, as follows:

20 Respondent departed from the standard of care when prescribing controlled
21 substances to Patient A from November 2011 through January 2012, as more fully alleged
22 in Accusation No. 800-2017-038059.

23 2. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
24 Decision, Respondent shall submit to the Board or its designee for its prior approval educational
25 program(s) or course(s) which shall not be less than 40 hours, to be completed within six (6)
26 months of effective date of this order. The educational program(s) or course(s) shall be aimed at
27 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
28 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to

1 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
2 completion of each course, the Board or its designee may administer an examination to test
3 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
4 hours of CME of which 40 hours were in satisfaction of this condition.

5 3. **PRESCRIBING PRACTICES COURSE.** Within 60 calendar days of the effective
6 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
7 advance by the Board or its designee. Respondent shall provide the approved course provider
8 with any information and documents that the approved course provider may deem pertinent.
9 Respondent shall participate in and successfully complete the classroom component of the
10 course not later than six (6) months after Respondent's initial enrollment. Respondent shall
11 successfully complete any other component of the course within one (1) year of enrollment. The
12 prescribing practices course shall be at Respondent's expense and shall be in addition to the
13 Continuing Medical Education (CME) requirements for renewal of licensure.

14 A prescribing practices course taken after the acts that gave rise to the charges in the
15 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
16 or its designee, be accepted towards the fulfillment of this condition if the course would have
17 been approved by the Board or its designee had the course been taken after the effective date of
18 this Decision.

19 Respondent shall submit a certification of successful completion to the Board or its
20 designee not later than 15 calendar days after successfully completing the course, or not later than
21 15 calendar days after the effective date of the Decision, whichever is later.

22 4. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the
23 effective date of this Decision, Respondent shall enroll in a course in medical record keeping
24 approved in advance by the Board or its designee. Respondent shall provide the approved course
25 provider with any information and documents that the approved course provider may deem
26 pertinent. Respondent shall participate in and successfully complete the classroom component of
27 the course not later than six (6) months after Respondent's initial enrollment. Respondent shall
28 successfully complete any other component of the course within one (1) year of enrollment. The

1 medical record keeping course shall be at Respondent's expense and shall be in addition to the
2 Continuing Medical Education (CME) requirements for renewal of licensure.

3 A medical record keeping course taken after the acts that gave rise to the charges in the
4 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
5 or its designee, be accepted towards the fulfillment of this condition if the course would have
6 been approved by the Board or its designee had the course been taken after the effective date of
7 this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the course, or not later than
10 15 calendar days after the effective date of the Decision, whichever is later.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Dennis K. Ames, Esq. and Pogey Henderson, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and fully agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 05-17-2019



CHARLES YANG, M.D.
Respondent

I have read and fully discussed with Respondent Charles Yang, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/20/2019


DENNIS K. AMES, ESQ.
Attorney for Respondent

DATED: 5/20/19


POGEY HENDERSON, ESQ.
Attorney for Respondent

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Dated: May 20, 2019

XAVIER BECERRA
Attorney General of California
MATTHEW M. DAVIS
Supervising Deputy Attorney General

[Handwritten signature]

JASON J. AHN
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 800-2017-038059

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Investigation Against:

Case No. 800-2017-038059

Charles Yang, M.D.
17552 BEACH BLVD., STE. B
HUNTINGTON BEACH, CA 92647

ACCUSATION

Physician's and Surgeon's Certificate
No. A 35385,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 18, 1980, the Medical Board issued Physician's and Surgeon's Certificate No. A 35385 to Charles Yang, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will

1 expire on June 30, 2020, unless renewed.

2 JURISDICTION

3 3. This Accusation is brought before the Board, under the authority of the following
4 laws. All section references are to the Business and Professions Code (Code) unless otherwise
5 indicated.

6 4. Section 2227 of the Code states:

7 “(a) A licensee whose matter has been heard by an administrative law judge
8 of the Medical Quality Hearing Panel as designated in Section 11371 of the
9 Government Code, or whose default has been entered, and who is found guilty,
10 or who has entered into a stipulation for disciplinary action with the board, may, in
11 accordance with the provisions of this chapter:

12 “(1) Have his or her license revoked upon order of the board.

13 “(2) Have his or her right to practice suspended for a period not to exceed
14 one year upon order of the board.

15 “(3) Be placed on probation and be required to pay the costs of probation
16 monitoring upon order of the board.

17 “(4) Be publicly reprimanded by the board. The public reprimand may
18 include a requirement that the licensee complete relevant educational courses approved by
19 the board.

20 “(5) Have any other action taken in relation to discipline as part of an order
21 of probation, as the board or an administrative law judge may deem proper.

22 “(b) Any matter heard pursuant to subdivision (a), except for warning letters,
23 medical review or advisory conferences, professional competency examinations,
24 continuing education activities, and cost reimbursement associated therewith that
25 are agreed to with the board and successfully completed by the licensee, or other
26 matters made confidential or privileged by existing law, is deemed public, and shall be
27 made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 2234 of the Code, states:

2 "The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
4 is not limited to, the following:

5 "...

6 "(b) Gross negligence.

7 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent
8 acts or omissions. An initial negligent act or omission followed by a separate and distinct
9 departure from the applicable standard of care shall constitute repeated negligent acts.

10 "(1) An initial negligent diagnosis followed by an act or omission medically
11 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

12 "(2) When the standard of care requires a change in the diagnosis, act, or omission
13 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
14 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs
15 from the applicable standard of care, each departure constitutes a separate and distinct
16 breach of the standard of care.

17 "..."

18 6. Section 2266 of the Code states:

19 "The failure of a physician and surgeon to maintain adequate and accurate records relating
20 to the provision of services to their patients constitutes unprofessional conduct."

21 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
22 which breaches the rules or ethical code of the medical profession, or conduct which is
23 unbecoming a member in good standing of the medical profession, and which demonstrates an
24 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
25 575.)

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

8. Respondent has subjected his Physician's and Surgeon's Certificate No. A 35385 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of Patient A,¹ as more particularly alleged hereinafter:

9. Respondent treated Patient A at various times from December 1992 until Patient A's death in January 2012 and has prescribed one or more controlled substances to Patient A since September 2010.² Patient A had a history of chronic back pain.

10. Between on or about November 3, 2011 to on or about January 9, 2012, Respondent prescribed the following controlled substances to Patient A:

Filled	Drug Name	Quantity	Prescriber
11-03-11	Hydrocodone ³ – Acetaminophen 10-325	80	Respondent
12-12-11	Hydrocodone – Acetaminophen 10-325	80	Respondent

¹ References to "Patient A" are used to protect patient privacy.

² Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

³ Hydrocodone/APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA published a final rule rescheduling hydrocodone combination products (HCPs) to Schedule II of the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled substances are substances that have a currently accepted medical use in the United States, but also have a high potential for abuse, and the abuse of which may lead to severe psychological or physical dependence. When properly prescribed and indicated, it is used for the treatment of moderate to severe pain. In addition to the potential for psychological and physical dependence there is also the risk of acute liver failure which has resulted in a black box warning being issued by the Federal Drug Administration (FDA). The FDA black box warning provides that "Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. Most of the cases of liver injury are associated with use of the acetaminophen at doses that exceed 4,000 milligrams (4 grams) per day, and often involve more than one acetaminophen containing product."

Filled	Drug Name	Quantity	Prescriber
12-12-11	Alprazolam ⁴ 1mg	30	Respondent
12-21-11	Alprazolam 1mg	15	Respondent
12-21-11	Hydrocodone-Acetaminophen 10-325	40	Respondent
01/09/12	Hydrocodone-Acetaminophen 10-325	120	Respondent

12. Respondent prescribed the above controlled substances without a controlled substances agreement.

13. Respondent saw Patient A on November 3, 2011, December 12, 2011, December 21, 2011, and January 9, 2012 ("office visits").

14. For the above office visits, Respondent failed to adequately document one or more of the following elements related to the safe prescribing of controlled substances including, but not limited to, family history, social history, past medical history, indications, benefits, risks, and alternatives.

15. Respondent's progress notes documenting above office visits were illegible and/or difficult to decipher.

16. Respondent failed to properly reconcile medications Patient A was taking during the time period covering above office visits.

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⁴ Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subsection (d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, Alprazolam is generally used to treat anxiety and panic disorders.

1 17. Respondent committed gross negligence in his care and treatment of Patient A,
2 which included, but was not limited to, the following:

3 (a) Respondent prescribed the above controlled substances without a controlled
4 substances agreement;

5 (b) Respondent failed to adequately document one or more of the following
6 elements related to the safe prescribing of controlled substances including, but not limited
7 to, family history, social history, past medical history, indications, benefits, risks, and
8 alternatives;

9 (c) Respondent's progress notes documenting Patient A's office visits were
10 illegible and/or difficult to decipher; and

11 (d) Respondent failed to properly reconcile medications Patient A was taking.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Repeated Negligent Acts)**

14 18. Respondent has further subjected his Physician's and Surgeon's Certificate No.
15 A 35385 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
16 subdivision (c), of the Code, in that he committed repeated negligent acts in his care and
17 treatment of Patient A, as more particularly alleged herein.

18 (a) Paragraphs 8 through 17, above, are hereby incorporated by reference
19 and realleged as if fully set forth herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain Adequate and Accurate Records)**

22 19. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 A 35385 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
24 Code, in that respondent failed to maintain adequate and accurate records regarding his care and
25 treatment of Patient A, as more particularly alleged in paragraphs 8 through 18, above, which are

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1 hereby incorporated by reference and realleged as if fully set forth herein.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(General Unprofessional Conduct)**

4 20. Respondent has further subjected his Physician's and Surgeon's Certificate No.
5 A 35385 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
6 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
7 unbecoming to a member in good standing of the medical profession, and which demonstrates an
8 unfitness to practice medicine, as more particularly alleged in paragraphs 8 through 19, above,
9 which are hereby incorporated by reference as if fully set forth herein.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Medical Board of California issue a decision:


13 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 35385,
14 issued to Charles Yang, M.D.;

15 2. Revoking, suspending or denying approval of Charles Yang, M.D.'s authority to
16 supervise physician assistants and advanced practice nurses;

17 3. Ordering Charles Yang, M.D., if placed on probation, to pay the Board the costs of
18 probation monitoring; and

19 4. Taking such other and further action as deemed necessary and proper.

20
21 DATED:
22 October 25, 2018


23 KIMBERLY KIRCHMEYER
24 Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California
28 Complainant